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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,836	01/10/2001	Rick V. Murakami	9437.17	9796
32642	7590	04/17/2007	EXAMINER	
STOEL RIVES LLP - SLC 201 SOUTH MAIN STREET ONE UTAH CENTER SALT LAKE CITY, UT 84111			NGUYEN, NAM V	
			ART UNIT	PAPER NUMBER
			2612	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/17/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/758,836	MURAKAMI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Nam V. Nguyen	2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 January 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 10 January 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892) ✓  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

The application of Murakami et al. for a “device using histological and physiological biometric marker for authentication and activation” filed January 10, 2001 has been examined.

This application claims priority to U.S. provisional application number 60/175,460, which is filed on January 10, 2000.

Claims 1-25 are pending.

### ***Information Disclosure Statement***

An information disclosure form (PTO-1449) listing the references was not enclosed in the application.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to label boxes (170, 120 and 155) in Figure 3 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

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sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 19 recites the limitation "a cellular phone" in lines 2 and 5-6, and "phone" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 is objected to because of the following informalities: Claim 25 is incomplete. An appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-13, 14, 16 and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lofberg (US# 4,582,985).

Referring to Claims 1-3, 12-13 and 16, Lofberg discloses the biometrically activated device (1) (i.e. a data carrier) (column 3 lines 41 to 65; see Figure 1) comprising a biometric sensor device (2) for obtaining heat transmission from the finger to a sensing device (column 7 lines 8 to 24; see Figures 1-4), a memory (6), a transmitter LED (45), a photo transistor (46) (column 7 lines 49 to column 8 line 29; see Figure 4), and wherein said biometric sensor device (2) further comprises a switch (10) on the sensing elements of the sensing matrix 9' (column 5 lines 11 to 29; see Figures 1 and 4).

Referring to Claims 5-8 and 14, Lofberg discloses the biometrically activated device of Claims 2 and 12, wherein said a light-emitting diodes (45) and a photo-transistor (46) arranged to transmit and to receive reflected light (column 7 line 49 to column 8 line 29; see Figure 4).

Referring to Claim 9, Lofberg discloses the biometrically activated device of Claim 1, Wherein said image memory (6) stores data indicating the finger characteristic of a card user (column 5 lines 30 to 34; column 8 lines 49 to 58; see Figure 3).

Referring to Claim 10, Lofberg discloses the biometrically activated device of Claim 1,

Wherein said memory (6) includes reference bit sequence to activate an LED (7) (column 5 lines 30 to 44; see Figure 1).

Referring to Claim 11, Lofberg discloses a biometrically activated card, to the extent as claimed with respect to claims 1 to 3 above, and further include a signal processor in communication with said biometric sensor device (2) for converting said received signal into an electrical signal (column 4 lines 42 to 53; see Figure 1).

Referring to Claims 20-22, Lofberg discloses a method of electromagnetically detecting and comparing an unique internal human biometric marker, to the extent as claimed with respect to claim 11 above, and further include comparing said electrical impulse with said pre-existing stored data (column 5 lines 30 to 38; see Figure 1).

Referring to Claim 23-25, Lofberg discloses a method of activating an electrical device, to the extent as claimed with respect to claim 20 above, and further include activating an electrical device (7) (i.e. an indicator) to generate a green radiation signal if said user biometric profile matches at least one stored biometric profile (column 5 lines 30 to 38; see Figure 1).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lofberg (US# 4,582,985) as applied to Claims 2 and 12, and in view of Hiramatsu (US# 5,180,901).

Referring to claims 4 and 15, Lofberg discloses the biometrically activated device of Claims 2 and 12, however, Lofberg did not explicitly disclose wherein said biometric sensor further comprises a translator whereby signals received from said energy sensor are translated into a biometric profile.

In the same field of endeavor of self-contained card, Hiramatsu discloses the authenticity sensor (3) connects to an analog/digital converter (4) and authenticity detecting circuit (5) to convert received signal to obtain characteristic of the finger (column 6 line 5 to column 7 line 15; see Figures 7 to 16) for verification of an authentication of a live finger.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to recognize using an analog/digital converter and authenticity detecting circuit to convert the biometric signal from the authenticity sensor taught by Hiramatsu in a data carrier that exchange of data with terminal equipment of Lofberg because using analog/digital converter and authenticity detecting circuit to convert the biometric signal from the authenticity sensor for verification of a biometrical data would increase security and reliable communication of exchanging information data.

Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lofberg (US# 4,582,985) in view of Pavlov et al. (US# 4,614,861).

Referring to claim 17, Lofberg discloses a biometrically activated card, to the extent as claimed with respect to claim 1 above, however, Lofberg did not explicitly disclose a data communicator embedded within said second surface of said card, said data communicator in communication with said memory module for communicating data to an external source.

In the same field of endeavor of self-contained card, Pavlov et al. teach that an input/output port (36) to communicate with a semiconductor data memory of microprocessor 34 to communicate data with a programming machine 90 (column 9 line 11 to 23; column 13 line 44 to 68; see Figures 3-6 and 9) in order to read confidential and non-confidential information which has been stored on the self-contained verification card.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to recognize using an input/output port to communicate information data with external source taught by Pavlov et al. in a data carrier that exchange of data with terminal equipment of Lofberg because using input/output port to exchange data between data carrier and terminal equipment would increase security and reliable communication of exchanging information data.

Referring to claim 18, Lofberg in view of Pavlov et al. disclose the biometrically activated card of claim 17, Pavlov et al. disclose a liquid crystal display (14) embedded between card top surfaces 48 and card backing 40 and connect to microprocessor 34 (column 10 lines 8 to 18; column 11 lines 4 to 16; column see Figures 3 and 5).

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt et al. (US# 4,582,985) in view of Lofberg (US# 4,582,985).

Referring to claim 19, Schmitt et al. discloses a biometrically activated portable telecommunication device (190) (column 3 lines 17 to 30; see Figures 14-15), the portable telecommunication device (190) having an activated state and an inactivated state controlled by an activation switch (i.e. a power control means) (column 6 lines 46 to 64; see Figure 4);

a biometric sensor (30) embedded within said the portable telecommunication device (190) and the biometric sensor on surface of said the portable telecommunication device (column 13 lines 57 to 62; see Figures 14-15);

a fingerprint ID stored memory (208) embedded within the portable telecommunication device (190), said the fingerprint ID stored memory (208) in communication with the biometric sensor (30) and the power control means (column 13 lines 46 to 62; see Figures 4 and 14-15).

However, Schmitt et al. did not explicitly disclose a biometric sensor having an energy transmitter and an energy receiver.

In the same field of endeavor of data carrier, Lofberg teach that a biometric sensor having an energy transmitter and an energy receiver (column 7 line 49 to column 8 line 29; see Figure 4) in order to sense biometric of a user.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to recognize using a biometric sensor in a data carrier taught by Lofberg, in a biometric

sensor of a cellular telephone of Schmitt et al. because using a biometric sensor having an energy transmitter and an energy receiver would increase reliable of sensing biometric of a user.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lane (US# 5,623,552) discloses a self-authenticating identification card with fingerprint identification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nam V Nguyen whose telephone number is 571-272-3061. The examiner can normally be reached on Mon-Fri, 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Brian Zimmerman can be reached on 571- 272-3059. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nam Nguyen  
March 29, 2007



  
BRIAN ZIMMERMAN  
PRIMARY EXAMINER